

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.17361 of 1998

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in not paying salary due to the petitioner from 25.3.1996 to 11.9.1997, the period during which he was illegally restrained by third respondent from discharging his duties in spite of the representation dated 1.1.1998 as arbitrary, illegal and violative of principles of natural justice, contrary to the provisions of A.P. Cooperative Societies Act and the Rules made thereunder.

It appears, petitioner was working as Secretary in the third respondent society. While so, he was on long leave and proceeded to Haj Pilgrimage. He came back and reported to duty on 25.3.1996, but he was not permitted to join the duty, therefore, he made a representation dated 19.8.1996 to the Commissioner for Cooperation and Registrar of Cooperative Societies. The Commissioner issued proceedings dated 10.9.1996 directing the third respondent to admit the petitioner to duty pending settlement of leave period and also directed for relieving the person who was posted in his place. Questioning the same, third respondent filed W.P.No.21453 of 1996 before this Court, and the same was dismissed at the stage of admission. Aggrieved by the same, the matter was carried in appeal by way of W.A.No.1311 of 1996. The said writ appeal was disposed of by this Court on 6.11.1996 directing the third respondent to seek alternative remedy of filing revision before the Government challenging the proceedings of the Commissioner dated 10.9.1996. Meanwhile, when the petitioner had reported to duty on 12.9.1996, third respondent did not allow him to join the duty. Therefore, petitioner made a representation dated 18.9.1996 to the second respondent, who

inturn issued proceedings dated 18.9.1996 directing the third respondent to implement the orders of the Commissioner for Cooperation dated 10.9.1996. Ultimately, petitioner was permitted to join the duty with effect from 11.9.1997. The grievance of the petitioner in this writ petition is that he was prevented from joining the duty from 25.3.1996 to 11.9.1997, therefore, he is entitled to wages for the said period.

A detailed counter affidavit has been filed by third respondent-society stating that the petitioner had applied for leave between 4.10.1993 and 8.10.1993 and further requested to permit to avail public holidays i.e. 2.10.1993 and 3.10.1993 in order to attend to some domestic functions. Accordingly, leave was sanctioned from 2.10.1993 to 8.10.1993 and after expiry of the leave period, petitioner did not turn up and ultimately, it was found that he left the country and got employment in the Gulf countries. The third respondent-society also gave a complaint to the first respondent on 11.10.1993 stating that the petitioner has taken away the records and absconded from the duty and it is difficult for the society to recover the loans or renew the loan applications etc., and requested to initiate appropriate action against the petitioner. As the petitioner had obtained orders from the Commissioner for Cooperation for joining the duty, questioning the said order, third respondent-society filed W.P.No.21453 of 1996 before this Court and the same was dismissed. Aggrieved by the same, matter was carried in appeal by way of W.A.No.1311 of 1996 and the same was disposed of on 6.11.1996 permitting the society to avail alternative remedy of revision. Therefore, a revision was filed before the Government and the said revision was disposed of directing the third respondent to file explanation to the show cause notice and if any orders are passed against the society, the society is entitled to file appeal before the competent authority. The Government further directed the second respondent to conduct a thorough investigation in

the light of the arguments made before passing the final orders. So far neither the first respondent nor the second respondent has initiated any action against the petitioner in this regard. Further, the petitioner has joined duty on 19.9.1996 as per the directions of the Commissioner for Cooperation dated 10.9.1996 and worked for only 17 days. Therefore, the petitioner is entitled to salary for 17 days only, but not for the entire period as alleged.

The Government also filed a detailed counter stating that the petitioner instead of making representation to the third respondent for payment of salary, had directly approached the respondents 1 and 2, therefore, the writ petition is liable to be dismissed.

Heard both sides and perused the impugned order and other material made available on record.

It appears, since the petitioner was unauthorizedly absent for more than three years, he was not permitted to join the duty. However, in view of the orders passed by the Commissioner for Cooperation and ultimately by the Government, he was permitted to join the duty on 11.9.1997. It is not the case of the petitioner that he worked for the period from 25.3.1996 to 11.9.1997. In the counter filed by the third respondent, it is stated that the petitioner has worked for only 17 days, therefore he is entitled to salary for the said period, but not from 25.3.1996 to 11.9.1997.

In view of the above, it cannot be said that the petitioner is entitled for salary for the said period. However, the respondents are directed to consider for regularization of the said period either as leave or leave without pay etc., and be treated as continuity of service for the purpose of terminal/retiral benefits. With the above directions, the writ petition stands disposed of. No order as to costs.

C.V.RAMULU, J

Date: 25.4.2007

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W.P.No.17361 of 1998

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**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.17361 of 1998

Dated: 25th April 2007

Between:

A.A.Saleem

... Petitioner

and

The District Cooperative Officer,
Medak district, Sangareddy & others.

... Respondents